

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

DALE FIENE

Serial No. 07/011,024

Filed: February 5, 1987

Atty Docket No. F320-05-A8-0001

For: "A.C. POWERED SMOKE DETECTOR
WITH BACK-UP BATTERY SUPERVISION
CIRCUIT"

Honorable Commissioner of Patents
and Trademark
Washington, D.C. 20231

Publication Branch

RECEIVED

JUN 13 1990

DEPUTY ASST. COMM.

PETITION TO REVIVE
UNINTENTIONALLY ABANDONED APPLICATION

Dear Sir:

On May 19, 1990, the Applicant received a Notice of Abandonment for failure to pay the issue fee in the above application. The Applicant hereby petitions under 37 C.F.R. §1.316(b) to have the above application reinstated and the holding of abandonment reversed on the grounds that the abandonment was unavoidable. The reasons for this Petition are set forth below, and these are attested to in a Declaration by Applicant's attorney.

On June 5, 1989, a Notice of Allowability was received by the Applicant, wherein it was noted that the issue fee and formal drawings were required to be submitted. On July 31, 1989, the Applicant, through the undersigned attorney, submitted a cover letter with certificate of mailing (Exhibit A); the completed Notice of Allowability Form 85B with a certificate of mailing (Exhibit B); the formal drawings (Exhibit C); check No. 001316 in

060 MC 06/19/90 07011024

1 241 31.00 CK

060 MC 06/19/90 07011024

1 242 310.00 CK

#19
Petition to
Withdraw
Abandonment

240-31.00
242-310.00

MD
6/19/90

920

the amount of \$310 payable to the Commissioner of Patents and Trademarks (Exhibit D); and a postcard (Exhibit E).

A review of the Applicant's file and its attorneys' Accounting department records now shows that the return postcard and the cancelled check were never received by the Applicant. Therefore, it appears that these have been lost in the mail.

In December, 1989, unaware that the check had been lost, a paralegal for Applicant's attorneys contacted Examiner Jill Jackson to determine the status of this Application and the reason why it had not yet been issued. Examiner Jackson informed them that the delay was caused by the fact that the Drafting Section could not find the formal drawings, and that they needed to submit a copy of these drawings. It was Applicant's attorneys' understanding from these discussions that the original drawings had been lost by the Drafting Section.

On January 22, 1990, the Applicant submitted a copy of the formal drawings with a cover letter with a certificate of mailing (Exhibit F). This was received by the PTO on January 29, 1990, as evidenced by the stamped return postcard (Exhibit G). On May 9, 1990, Applicant's paralegal again inquired as to the status of the Application and was told it had been sent to the "Allowed" files section. We clearly understand that this meant the patent was about to be printed.

In light of the above facts, the Applicant respectfully petitions to have the Notice of Abandonment withdrawn. The failure to pay the issue fee was unavoidable, as the evidence clearly shows that the required documents, including the issue fee, were mailed

within the three month period required under 37 C.F.R. §1.316(a). The Applicant was not made aware of the fact that it had not been received by the PTO until well after the due date had passed. In fact, Applicant's attorney made repeated attempts to determine the status of the application and was never advised that the issue fee had not been received. Thus, the "unavoidable" test of 37 C.F.R. §1.316(b) has been met.


To satisfy the requirements, the Applicant herewith submits another check in the amount of \$310, and an additional check in the amount of \$31.00 pursuant to 37 C.F.R. §1.17(1). Any additional fees may be charged to, or overpayments credited to Deposit Account No. 22-0259.

Respectfully submitted,



Robert E. Browne
Reg. No. 26,150
Vedder, Price, Kaufman & Kammholz
222 North LaSalle Street
Chicago, Illinois 60601
312/609-7840

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:
Commissioner of Patents and Trademarks, Washington,
D.C. 20231, on JUNE 5 1990


Robert E. Browne, Reg. 26,150 6/5/90
DATE

6/1/90

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Publication Branch

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DEPUTY ASST. COMM.

For: "A.C. POWERED SMOKE DETECTOR
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CIRCUIT"

DECLARATION TO SUPPORT APPLICANT'S PETITION

Thomas C. McDonough hereby declares as follows:

On June 5, 1989, our office received a Notice of Allowability in the above case, wherein it was noted that the issue fee and formal drawings were required to be submitted. On July 31, 1989, we prepared and submitted a cover letter with certificate of mailing (Exhibit A); the completed Notice of Allowability Form 85B with a certificate of mailing (Exhibit B); the formal drawings

(Exhibit C); check No. 001316 in the amount of \$310 payable to the Commissioner of Patents and Trademarks (Exhibit D); and a postcard (Exhibit E).

On December, 29, 1989, a paralegal in our office, Laura Janson contacted Examiner Jill Jackson to determine the status of this Application and the reason why it had not yet been issued. Examiner Jackson informed Ms. Janson that the delay was caused by the fact that the Drafting Section did not have the formal drawings, and that she would speak with the Supervisor of the Drafting Section to attempt to locate these drawings. On January 2, 1990, Examiner Jackson informed Ms. Janson that we needed to submit a copy of these drawings for the Drafting Section to reproduce the missing drawings. It was Ms. Janson's and my understanding from these discussions that the original drawings had been lost by the Drafting Section.

To remedy this situation, on January 22, 1990, we submitted a copy of the drawings with a cover letter with a certificate of mailing (Exhibit F). This was received by the PTO on January 29, 1990, as evidenced by the stamped return postcard (Exhibit G).

On May 9, 1990, Ms. Janson again checked with the Examiner Jackson to determine the reason why the patent had not yet issued. Examiner Jackson informed her at that time that the Application was in the Allowed Files section and should be issued shortly. However, on May 19, 1990, our office received a Notice of Abandonment for failure to pay the issue fee in the above application.

After we received the Notice of Abandonment, I reviewed the Applicant's file and our firm's accounting records and determined that the original return postcard and the cancelled check have not yet been received. Thus it is my belief that these document, including the issue fee and original drawings have been lost in the mails.

Respectfully submitted,



Thomas C. McDonough
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312/609-7853

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231, on June 5, 1990



Thomas C. McDonough Reg. No. 33,734

6/5/90
DATE